IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

Misc. Petition No. 682 /1994

PETITIONERS .. 1 Smt. Vimla Singh
widow of late B.P. Singh,
aged about 51 years

2 Smt. Geeta Singh
widow of late B.P. Singh,
aged about 45 years

3 Dharamveer Singh,
son of late B.P. Singh,
aged about 18 tears

4 Mukesh, son of late B.P. Singh,
aged about 15 years

Nos. 3 and 4 minors through their
mother Smt. Vimla Singh and
Smt. Geeta Singh respectively

Proprietors M/s G.S. Steel Castings,
15 Light Industries Area,
Bhilai

Versus

RESPONDENTS .. 1 State of Madhya Pradesh
through the Secretary,
Industries Deptt., Vallabh Bhawan,
Bhopal

2 Additional Director of Industries,
Regional Industries Office,
Durg

3 General Manager,
District Industries Centre,
Durg

4 M/s Rahul Industries,
Proprietor Rajul Tamrakar (minor)
son of Shri Shankerlal Tamrakar,
ex Mayor, Municipal Corporation Durg,
Industrial Estate, Nandini Road,
Bhilai, Distt. Durg, M.P.

.... 2

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR A WRIT IN THE NATURE OF CERTIORARI, MANDAMUS, PROHIBITION ETC. AND FOR ANY OTHER APPROPRIATE ORDER ETC.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No.1822 सन् 94 200

..... विरुद्ध .....

आदेश का क्रमांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	2.8.2005 Shri Ajay Shrivastava, counsel for the petitioners. Shri Parag Kotecha. Panel Lawyer for the State. Shri Anup Mazumdar, counsel for respondent No.4. The petitioner has filed this writ petition under Article 226/227 of the Constitution of India. The case of the petitioner is that the Director of Industries granted a lease in the year 1974 in favour of M/s G.S. Steel Castings Industries, Bhilai in respect of a land admeasuring 2 acres bearing Plot No.15 for a period of 99 years in Light Industries Area, Bhilai for the purpose of establishing a factory for manufacturing of iron & steel castings and other allied products. The industrial unit was established on the said leased land and the production of wire nails and H.B. wire was commenced. Thereafter, Shri R.K. Gupta, one of the partners of M/s G.S. Steel Castings Industries, retired from the said company w.e.f. 11.7.1980 and Shri B.P. Singh, second partner of the company became the sole proprietor of said company and thereafter, Shri B.P. Singh and his son continued as Proprietor of the company. Said B.P. Singh also died on 30.7.1983 leaving behind Smt.Vimla Singh and her minor son namely Dharamveer Singh & Smt. Geeta Singh and her minor son namely Mukesh and there was no other male member in the family to look after the business. On	

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आदेश पत्रक

मामला क्रमांक W.P.No.1822/94 सन् 200

..... विरुद्ध .....

आदेश का नांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

26.2.1992 the General Manager, District Industries Centre passed an order cancelling the lease granted in favour of said M/s G.S. Steel Castings Industries on the ground that it has not completed the construction and it is not carrying on the production work on the lease land. Against the said order the petitioners had preferred an appeal before the Additional Director, District Industries Centre on 10.3.1992 and same was allowed by the Additional Director vide order dated 23.9.1992 (Annexure P-5) directed to restore the whole land in favour of the petitioners' company. During the pendency of appeal, the petitioners came to know that a big part of leased land comprising of about 3/4th acre has been allotted to one M/s Rahul Industries, therefore, the petitioner raised an objection that as per Circular of the Directorate of Industries during the pendnecy of appeal respondents were not entitled to allot the land to respondent No.4, but when the allotment of big part of lease land in favour of Rahul Industries was not cancelled and said Rahul Industries started construction activities on the petitioners leased land, the petitioers had filed a civil suit, which was later on withdrawn on technical grounds. Further the petitioner has submitted that to their knowledge no proceeding under Ceiling Act was initiated in respect of the leased land and they have never been given any notice by the Urban Land Ceiling

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आदेश पत्रक

मामला क्रमांक WP(S) 1822 /94 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Authority, therefore, it has been prayed that the allotment made in favour of respondent No.4 be quashed and also the order passed by the competent authority under the Urban Land Ceiling Act decalring the part of the petitioners' leased land as surplus land.

Return on behalf of the respondent Nos.1 to 3 has been filed in which it has been mentioned that the land in question was leased out by the District Industries Centre in favour of M/s G.S. Steel Casting for a period of 99 years; the land was never allotted to Shri Ram Kumar Gupta, who was the proprietor of M/s G.S. Steel Casting and Shri Gupta never informed any change in the firm and never obtain any permission to adopt Shri B.P. Singh as a partner of the company. The petitioners have no rights over the land in question on account of violation of conditions laid down in the lease deed and the lease deed has been cancelled by the General Manager, District Industries Centre, Durg. Thereafter, an order was passed by the Competent Authority under Urban Land Ceiling Act dated 18.6.1985 declaring 70,600 sq. ft. land as excess land, which was lying unutilized with the unit and despite the repeated reminders and notices the unit did not surrender the said excess land, so as per procedure, Panchnama possession was obtained by the lessor assuming possession of 55,200 sq. ft. of vacant land of Plot No.15.

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..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

After obtaining possession, out of 55,200 sq. ft. of land 30,000 sq. ft. of land has been allotted to M/s Rahul Engineeering Works, on 6.8.1991 a lease deed was executed in favour of respondent No.4 herein and on the said land respondent No.4 is already running his unit. Against the said order passed by the Competent Authority under Urban Land Ceiling Act, in which 70,600 sq. ft. of land has been declared as surplus land, the petitioners have preferred no appeal, therefore, the petitioners are not entitled for any relief claimed in this petition and the petition of the petitioners deserves to be dismissed.

Similar return has been filed on behalf of respondent No.4.

I have heard learned counsel for the parties.

Learned counsel for the petitioner argued that after cancellation of lease deed on account of non-estalishment of industry on the lease land, the petitioners had preferred an appeal and vide order dated 23.9.1992, that appeal was allowed and whole land was restored to the petitioner company, therefore, the petitioners are entitled for possession of the whole land.

Whereas, counsel for respondent Nos.1 to 3 & 4 submitted that proceedings in Urban Land Ceiling Act were initiated by the Competent Authority and the land admeasuring 70,600 sq. ft. land was declared as surplus

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आदेश का देनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —S—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

land, possession of same was taken and ultimately in the year 1991 that land was allotted to respondent No.4 and over the said land respondent No.4 has already established his industry and running the same. It has also been argued that since R.K. Gupta never intimated the Industries Department, State Government about his retirement from M/s G.S. Steel Casting and how B.P.Singh has become the partner was also not informed, therefore, the petitioners have no right to file the petition.

Having heard learned counsel for the parties, I have perused the record. It is admitted position that vide Annexure R4-1 the Competent Authority under Urban Land Ceiling Act passed an order on 2.5.1986 declaring the land admeasuring 70,600 sq. ft. as surplus land under the said Act and the possession was taken. Thereafter, the said land was allotted to respondent No.4, lease deed was executed in the year 1991 and respondent No.4 has set up his industry in that area also. As far as the argument advanced by learned counsel for the petitioners that the company was never informed about the land ceiling proceedings is devoid of any merit, for the reasons that the an application was moved under Section 20(A) of the Act for exemption of land from the ceiling and on the said application the State Government passed the order dated 22.6.1985

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आदेश पत्रक

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —6—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

(Annexure R4-2) to the effect that land admeasuring 16,520 sq. ft. was declared free from Urban Land Ceiling Act and further asked M/s G.S. Steel Castings to surrender remaining 70,600 sq. ft. of land and in pursuance of that the possession was taken against which no appeal questioning the legality of said order was preferred by the petitioners.Therefore, it cannot be said that the petitioners had no knowledge about the ceiling proceedings.

Therefore, in view of the above facts that the land was already declared surplus under the Urban Land Ceiling Act, 1976, possession was taken over, same was allotted to respondent No.4 in the year 1991 and that order has not been challenged by the petitioners before the Competent Authority or the State Government, this writ petition filed after lapse of 9 years in which a simple request in the relief clause was made that the order passed by the Comptent Authority under Urban Land Ceiling Act, 1976 declaring a big part of petitioners' land as surplus land be quashed is not maintainable. Even no ground has been raised in the petition for quashment of the said order nor it has been mentioned as to how that order was illegal, and that the petitioners have no other remedy therefore, at this stage the writ petition is not maintainable. However, if the petitioners had any grievances against the said order

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -7-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

then they ought to have approached the Competent Authority in accordance with law.

The petition is devoid of any merit, the same is liable to be dismissed, as such it is dismissed.

Sd/-
L.C.BHADOO
Judge

'Roshan

(पीछे देखिये)